

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KRISTIN COLETTE ROLAND

90 Kilarney Lane

Santa Rosa, CA 95403

Registered Nurse License No. 570498

Respondent.

Case No. 2012-641

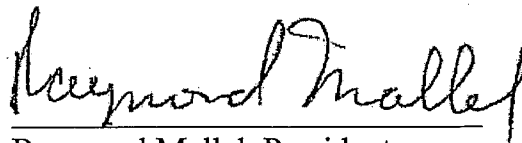
OAH No. 2012060979

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on April 12, 2013.

IT IS SO ORDERED this 13th day of March, 2013.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter on December 18, 2012, in Oakland, California.

Deputy Attorney General Jonathan D. Cooper represented Complainant Louise R. Bailey, M.Ed., R.N.

Respondent Kristin Colette Roland represented herself.

The record closed on December 18, 2012.

FACTUAL FINDINGS

1. Complainant Louise R. Bailey, M.Ed., R.N., filed the Accusation in her official capacity as Executive Officer, Board of Registered Nursing (Board), Department of Consumer Affairs.

2. The Board issued Registered Nurse License No. 570498 to Kristin Colette Roland (Respondent) on August 21, 2000. The license status is "inactive" and it is renewed until November 30, 2013.

Possession and use of dangerous drugs

3. On February 18, 2008, two Santa Rosa deputy sheriffs were on foot patrol at approximately 9:45 p.m. They contacted Respondent and another individual, who were standing in the driveway of a residence. In his report, Officer Christopher Haas wrote that he observed Respondent to have rapid speech and to be "jerky in her movements." He asked

her when she had last used methamphetamine. Respondent told him that she did not use methamphetamine, and that she "only smoked marijuana." Officer Haas conducted a series of sobriety tests, which he believed demonstrated that Respondent was under the influence of a stimulant. Of note is his observation of her eyes. He observed both of her eyelids to flutter and her pupil size to be 7.5 millimeters and non-reactive to light. He arrested her for a violation of Health and Safety Code section 11550, subdivision (a), being under the influence of drugs.

4. Officer Haas searched Respondent incident to arrest and found a cigarette box in her right front pocket. In the box, he found a small amount of marijuana and a glass pipe, which contained a white residue. He believed that the pipe was used for smoking methamphetamine.

5. Respondent provided a urine sample after being booked at the Sonoma County Jail. The toxicological results were positive for cocaine, marijuana, and methamphetamine.

Respondent's evidence

6. Respondent described her arrest as the result of having "fallen in with a bad crowd." She admits that she formerly used marijuana "at times," but denies ever trying methamphetamine or abusing alcohol or other drugs.

She surmises that she may have been "set up" to be arrested. She was leaving a party fairly early, and the owner of the house gave her a cigarette pack of what she believed contained only marijuana. She did not know that there was a pipe in the pack. When the officers approached, she became very nervous and anxious. She attributes the officer's description of her behavior to this nervousness. Respondent attempted to link the size of her pupils to her nervous state, but persuasive expert opinion evidence rebutted this theory.

7. Respondent appeared in criminal court subsequent to her arrest, and it seems that she entered a criminal diversion program. She was not otherwise prosecuted and was not convicted of a crime. She recalls going to court with her parents and that she did not have a lawyer. Respondent denies knowing that she tested positive for more than marijuana until the present action commenced.

8. Respondent entered a residential program "as a proactive step." It was run by the Good Sheppard Grace Center in San Francisco. She was there for six months, and represents that she graduated from the program in June 2008.

9. In approximately March of 2009, Respondent entered the Board's diversion program. She attended group meetings and participated in a biological fluids testing program. She also did the "90 meetings in 90 days" program with Alcoholics Anonymous (AA) and attended a nurse support group.

In September or October of 2011 Respondent was terminated from Board diversion. She had received non-compliant letters for failing to pay lab fees on time. She had also sent in paperwork late because she did not have the \$35 payment that was owed. Respondent asserts that the reason she did not complete the Board's diversion program was because she could not afford to pay the fees.

10. Respondent has had difficulty in maintaining employment since her arrest in 2008, which is when she last worked as a nurse. Since then she was "almost hired at Kaiser twice," but was not hired when her situation was revealed. She was employed by the Northern California Service League, until that position "ended."

11. Respondent asserts that she is now rehabilitated from the use of marijuana. She realized that it is a sedating drug, and does not agree with its use. She added that she did not "do any other drugs knowingly."

12. Respondent's descriptions of her arrest and drug use and history lacked credibility. The police report and, more importantly, the toxicology results, contradict her testimony. Given the contrary evidence, it is concluded that she was not forthcoming about her drug use history.

13. Respondent would now like to "get back to nursing" and would accept probation if it was necessary. She has signed up with a temporary agency.

14. A letter dated November 12, 2012, from Sheenia James confirms that Respondent was employed by the Northern California Service League in San Francisco from 2008 until 2010, when all paid staff was laid off. Respondent worked as an Intake Coordinator and was promoted to Office Manager in February 2009. Ms. James wrote that Respondent "is an excellent addition to any establishment" and recommended her "without hesitation."

15. Three additional reference letters were received in evidence. The authors all describe Respondent as having made progress through AA attendance and volunteer work.

Costs

16. Complainant certified that the costs incurred in the investigation and prosecution of this matter (attorney's fees only) through December 17, 2012, total \$1,765. Absent evidence to the contrary, the costs are found to be reasonable.

LEGAL CONCLUSIONS

1. Cause for license discipline exists pursuant to Business and Professions Code section 2761, subdivision (a), unprofessional conduct as defined in section 2762, subdivision (a) (possession of controlled substances or dangerous drugs), by reason of the matters set forth in Findings 3, 4 and 5.

2. Cause for license discipline exists pursuant to Business and Professions Code section 2761, subdivision (a), unprofessional conduct as defined in section 2762, subdivision (b) (use of controlled substances, drugs, or alcohol in a dangerous manner), by reason of the matters set forth in Findings 3, 4 and 5.

3. Business and Professions Code section 125.3 provides that:

... the Board may request an administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

Cause to order cost recovery in the amount of \$1,765 exists by reason of the matters set forth in Finding 16.

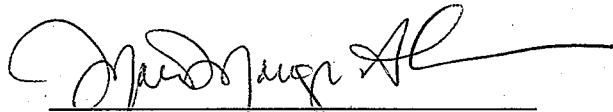
4. Respondent has requested that she be placed on probation to the Board "if necessary," but she has not demonstrated that she is a good candidate for probation. It is acknowledged that the conduct underlying the cause for discipline occurred over four years ago. But serious concerns remain about the incident and Respondent's explanations. Respondent claims not to have ever ingested methamphetamine, and yet the drug was found in her urine and a pipe with white residue was found on her person. In addition, the toxicology report revealed cocaine. Her representation that she entered a residential treatment program for occasional marijuana use thus becomes suspect. In addition, Respondent was given the opportunity to demonstrate she could comply with conditions enabling her to keep her license via the Board's diversion program, but she was not able to complete it. On this record, there is an insufficient basis to predict that she will be successful on probation to the Board at this time. Accordingly, the public interest requires that her nursing license be revoked.

ORDER

1. Registered nurse license number 570498, issued to Respondent Kristin Colette Roland, is revoked.

2. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,765. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this order shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

DATED: January 2, 2013



MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

Exhibit A

Accusation Case No. 2012-641

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6 *Attorneys for Complainant*

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2012-641

11 **KRISTIN COLETTE ROLAND**
12 **aka Kristin Roland**
13 **90 Kilarney Lane**
Santa Rosa, CA 95403

ACCUSATION

14 **Registered Nurse License No. 570498**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 21, 2000, the Board of Registered Nursing issued Registered
23 Nurse License Number 570498 to Kristin Colette Roland, aka Kristin Roland (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and expired on November 30, 2011.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section **2750** of the Business and Professions Code (Code) provides, in pertinent part,
3 that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section **2759** of the Code provides, in pertinent part, that the Board may impose
7 discipline upon the holder of a license by placing him on probation.

8 6. Section **2764** of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license.

11 **STATUTORY AND REGULATORY PROVISIONS**

12 7. Section **2761(a)** of the Code states, in pertinent part:

13 The board may take disciplinary action against a certified or licensed nurse or deny an
14 application for a certificate or license for any of the following:

15 (a) Unprofessional conduct

16 8. Section **2762** of the Code states:

17 In addition to other acts constituting unprofessional conduct within the meaning of this
18 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
19 following:

20 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
21 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
22 administer to another, any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
24 defined in Section 4022.

25 (b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
28 himself or herself, any other person, or the public or to the extent that such use impairs his or her

1 ability to conduct with safety to the public the practice authorized by his or her license.

2
3 **COSTS**

4 9. Section 125.3(a) of the Code states, in pertinent part:

5 Except as otherwise provided by law, in any order issued in resolution of a disciplinary
6 proceeding before any board within the department . . . the board may request the administrative
7 law judge to direct a licensee found to have committed a violation or violations of the licensing
8 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
9 case.

10 **CAUSE FOR DISCIPLINE**

11 (Possession and Use of Drugs)

12 10. Respondent is subject to disciplinary action under sections 2761(a) and 2762,
13 subsections (a) and (b), of the Code in that she obtained, possessed and used controlled
14 substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety
15 Code, and/or dangerous drugs or dangerous devices as defined in Section 4022, or alcoholic
16 beverages, and Respondent's use of said substances was to an extent or in a manner dangerous or
17 injurious to herself, any other person, or the public or to the extent that such use impaired her
18 ability to conduct with safety to the public the practice authorized by her license. The
19 circumstances are as follows:

20 a. On or about February 17, 2008, in Sonoma County, California, Respondent was
21 found to be under the influence of methamphetamine, in violation of California Health and Safety
22 Code section 11550(a). Respondent was also found to be in possession of marijuana, in violation
23 of California Health and Safety Code section 11357(b), and in possession of a pipe intended for
24 use ingesting methamphetamine, in violation of California Health and Safety Code section 11364.

25 **PRAAYER**


26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Registered Nursing issue a decision:
28

1 1. Revoking or suspending Registered Nurse License Number 570498, issued to Kristin
2 Colette Roland, aka Kristin Roland;

3 3. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
4 the investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3;

6 4. Taking such other and further action as deemed necessary and proper.

7 DATED: April 17, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant